

### **REMARKS**

Claims 41-63 and 65-85 are presently pending in the application. Claim 64 is not withdrawn from consideration as indicated by the Examiner in the outstanding Office Action. Rather, claim 64 was cancelled in Applicants' previous response. Claims 41, 62, 71, 78, and 85 are amended. Support for the amendments can be found in the originally filed specification at page 10, lines 14-15, and at Figures 2-4 and related description at page 11, line 16—page 17, line 14. The Examiner is respectfully requested to reconsider and withdraw the rejection in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 41-61 and 85 stand rejected under 35 U.S.C. § 103(a) as being obvious over Stern (U.S. Pat. No. 6,486,892) in view of Gerace (U.S. Pat. No. 5,848,396). This rejection is respectfully traversed.

The Examiner relies on Stern to teach retrieving webcast content of interest to a user for offline viewing, recording a broadcast show for a user, or changing an individual user's EPG filtering to cause a broadcast show on a topic to be listed in that user's EPG (col. 9, lines 36-48). As best understood by Applicants, Stern teaches causing different audience members to have different experiences than others by customizing their EPGs, and fails to modify both programming content elements and advertising content elements in an identical manner for all members of a broadcast audience and all members of a narrowcast audience. In other words, Stern does not teach, suggest, or motivate adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all

recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the audience metric, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements.

The Examiner relies on Gerace to teach monitoring webcast content consumption by different types of users so that the webcast advertisement content can be adjusted for individual users. However, Gerace does not teach, suggest, or motivate adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the audience metric, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements.

Applicants' claimed invention is directed toward adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable

in response to the audience metric, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements. For example, independent claim 41, especially as amended, recites, "adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the audience metric, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements." Independent claim 85, especially as amended, recites similar subject matter. These differences are significant.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of independent claims 41 and 85 under 35 U.S.C. § 103(a), along with rejection on these grounds of all claims dependent therefrom.

Claims 62-63 and 65-84 stand rejected under 35 U.S.C. § 103(a) as being obvious over Mao et al. (U.S. Pat. No. 6,459,427) in view of Stern (U.S. Pat. No. 6,486,892) and Gerace (U.S. Pat. No. 5,848,396). This rejection is respectfully traversed.

The Examiner relies on Mao et al. to teach simulcast and to teach customizing webcasting content based on a user profile, and admits that Mao does not teach monitoring audience response and characteristics to adjust media content. It should be noted that Mao et al. teaches that the user must choose between either to receive a

simulcast or to receive personalized webcasting content, and that users cannot get both (col. 7, lines 5-18). In view of this teaching of Mao et al. and for other reasons, Mao et al. fail to teach, suggest, or motivate adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the aggregate response and/or audience characteristics, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements. It should be noted that broadcast content cannot be personalized, so personalizing webcast content cannot suggest adjusting broadcast content.

The Examiner relies on Gerace to teach monitoring webcast content consumption by different types of users so that the webcast advertisement content can be adjusted for individual users. However, Gerace does not does not teach, suggest, or motivate adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the aggregate response and/or audience characteristics, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements.

The Examiner relies on Stern to teach retrieving webcast content of interest to a user for offline viewing, recording a broadcast show for a user, or changing an individual user's EPG filtering to cause a broadcast show on a topic to be listed in that user's EPG (col. 9, lines 36-48). As best understood by Applicants, Stern teaches causing different audience members to have different experiences than others by customizing their EPGs, and fails to modify both programming content elements and advertising content elements in an identical manner for all members of a broadcast audience and all members of a narrowcast audience. In other words, Stern does not teach, suggest, or motivate adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the aggregate response and/or audience characteristics, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements.

Applicants' claimed invention is directed toward adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the aggregate response and/or audience characteristics, the recipients of

the webcast content and the broadcast content receive identical programming and advertising content elements. For example, independent claim 62, especially as amended, recites, "adjusting, in an identical and uniform manner, programming and advertising content elements of webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content, thereby ensuring that, for all programming and advertising content elements that are adjustable in response to the aggregate response and audience characteristics, the recipients of the webcast content and the broadcast content receive identical programming and advertising content elements." Independent claims 71 and 78, especially as amended, recites similar subject matter. These differences are significant.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of independent claims 62, 71, and 78 under 35 U.S.C. § 103(a), along with rejection on these grounds of all claims dependent therefrom.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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